G. R. S. 58]

Previous references.

Legis 7-03. 1-14B.
Legislative II of 1886

19 10.
(Legis)

File No. 19-1910

Serial Nos. 1—3

Later references.

S.R. 86-17 Ks 7, 6158,
Binding 18.

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. 1-3

Part B for April 10

SUBJECT.

Amendment of Sec 229 of the Criminal Procedure Code Act II of 1884

Index of contents.

1. To the A.-A. Resident No 5608 of 11-12-10.
Requests that the Govt of India may be moved to allow the amendment of Sec 229.

2. From the Same Officer No 7405 of 26-12-10.
States that there is no objection to the proposed amendment in case suitable provision is made in any other enactment

3. To the Same officer No 894 of 8.4.11.
States that the Durbar are not willing to press the point

GPB—5,000—22-10-10

G.R.S.11]

1910.-11

GENERAL AND REVENUE SECRETARIAT

(Legislative

NOTES.

File No. 15

FILE HEADING.

Amendment of Section 225 of the Civil Procedure Code, Regn II of 1884

From

No.	Dated	Received

Diary No.	Enclos.	Spare Copies	Serial No.

BRIEF ABSTRACT OF LETTER.

NOTES AND ORDERS.

NOTES—First sheet.

GPB—30,000—3-4-07.

G. R. S. 12]
General and Revenue Secretariat.

Leg File No. 15 of 1910-11

Serial No.

1

"Extract from the Proceedings of the 245th Meeting of the Council of His Highness the Maharaja held at Bangalore on the 5th & 6th April 1910".

III. Subject (Clause ii of the Schedule).

Original Kept in the Civil Bill File

Certain matters connected with the Civil Procedure Code Bill.

Opinion of the Council

× × × ×

Sec. 122 of the Code Regn. II of 1884

"2. Retention or omission of the explanation to Clause 43 making the order of Council in Civil & Military Station, under the British Indian Enactment Act executable like a decree in Mysore.

"The explanation may be retained but a reference may be made to the Advocate as to whether the provision, which is anomalous and which is not found in the British Indian Act, may be omitted so as to bring the Mysore Regulation into line with the British Indian Act."

NOTE—Contn. sheet.

GPB—50,000—12-8-10

G. R. S. 12]
General and Revenue Secretariat.

File No. of 190

Serial No.

1. Please put up a clean copy of the draft as revised and let me see it again with the latest file on the subject which has not been put up. Urgent

Sd

Dept. wpk 12/11/10.

Sd will settle this reference

dd 18/11/10 Draft may be approved

18/11/10 Sd

~~Secy~~ Secy.

Dewan through 2nd Sr

19/11/10

Please ~~do~~ fair-copy with the alterations made by me & submit to Dewan.

19/11/10

8/12/10

Emly

Sd

Sd will settle a fair Copy 9/12/10

9/12/10.

Draft

9189

10-12

NOTE—Contn. sheet. 10

GPB—55,000—27-4-09

G. R. S. 12
General and Revenue Secretariat.

Leg File No. 15 of 1910—11

Serial No.

Draft approved by the Dewan

12/12/10.

Noted

18/12/10.

1 To the Resident in Mysore No. 668
16/12/10.

Requests that the forms of India may be issued with a view that the explanation appended to Sec. 229 of the C. P. Code (Myg. II of 1882) & Cl 43 of the new C. P. C.

From the same No. 7505 of 26/12/10.
States that the Resident does not object to removing the above explanation if suitable provision can be made by the Government in the Land Revenue Code or any other Regulation for the execution by the Courts of the State of the orders passed by the Civil Courts of the Cantonment, Bangalore, under the Madras Inland Trade Act.

Suggests no action. Evidently the Residency

NOTE—Contn. sheet.

GPB—55,000—27-4-10

3/1/11

Serial No.

Agent prepared to Consent to the unconditional omission of the Explanation in question, and Suggest its removal, if necessary to an appropriate place in the Land Revenue Code or Some more Suitable Enactment.

This will be again in form only and not in Substance. However it is difficult to See how anything more can be Expected under the circumstances.

(2) If it is Considered undesirable that the Civil Courts of the State Should be Compellable to Execute the orders of the kind now in question, and that the Revenue Officers are the proper functionaries to deal with Such matters, then a Suitable amendment of the law may be made and the opportunity taken to delete the words "or Revenue Court" in the when they first occur from the first para

GPB—50,000—12-8-10

G. R. S. 12]
General and Revenue Secretariat.

File No. of 19

Serial No.

Cl. 43. The Correspondence 1886-87 does not show that it was ~~ever~~ even intended to extend the provisions of Sec 229 to the decrees of Revenue Courts in British India ~~from~~ There is no such provision in the Corresponding Section of the British Indian Code. The retention of the words does not seem to be necessary in Mysore, ~~as the Regulations~~

3/1/11. Sd

1173

~~Sd~~ 2nd C/

Under what provision of law & by what procedure is land Revenue due to the C & M. Stn Collected (if at all) in Mysore at present? Is our revenue collected by any coercive process by them? Please note in the Rev. Deptt.

R. M. 67-10.

Early.

H ~~4/1/11~~ 4/1/11

To Bx 7

4/1/11. Sd P. J. O

NOTE—Contn. sheet.

GPB—50,000—12-8-10

G. R. S. 12]
General and Revenue Secretariat.

(7

Leg File No. 19 of 1910-11

Serial No.

Submitted. —

\\ Under the existing orders, land revenue due to the C. and M. Station or other British tract, cannot be collected by the Dunbar officers by the adoption of coercive process, nor can the revenue due to the Khyber State be recovered similarly by the officers of the British Govt or of C & M. Station. Only notices of demand for arrears issued by one Govt are served by the other and moneys paid in compliance with such notices remitted by one Govt to the other — Vide S.C. nos. 1, 2, 3, 4 and 5 of the correspondence between the Residency and the Dunbar recorded in Leg C no 5 pp 208-216 — dnis: 9th & the 8th Nov. 1877

N

J. B. L. 4
5/1/11

S. 14
5/1/11
BK
5/1/11 Subd
SN (III)
6/4

6/4/11.

2nd Cy It seems to me that in-

NOTE—Contn. sheet.

GPB—55,000—27-4-09

Serial No.

Income tax is not entitled to any better treatment than other kinds of revenue. If the matter is properly explained, the Residency may see that it is not reasonable to keep up the anomaly. If we are to omit the provision in the C. Pr. Code only to insert a similar one elsewhere, it would be hardly worth while taking the trouble.

Dewan. 7/1/11

9671 / 9.1.11 13 The circular to the Commissioners of Divisions and Collectors 7/1/11

14. Circulate 11/1/11

11/1/11

2016 / 18-1-11 15 It has now become a mamool and may perhaps be allowed to remain 7/1/11

Note for meeting 1/2 1912.

Note—Contn. sheet.

GPB—55,000—27-4-08

C 178
13.1.1911.

GENERAL AND REVENUE SECRETARIAT.

Council Matter.

SUBJECT.

Amendment of Section 229 of the Civil Procedure Code, Regulation II of 1884.

CIRCULATED TO COUNCILLORS.

By Order,

13th January 1911.

C S Balasundaram
Offg Secretary to Government.

K. P. Puttanna Chetty, Esq.,
First Councillor.

H. V. Nanjundayya, Esq., M.A., M.L.,
Second Councillor.

Opinion recorded.

G.R.S. 15]

Facing sheet for Cases included in the schedule appended to Notification No. 36 of the 8th Aug. 1902.

GENERAL AND REVENUE SECRETARIAT

SUBJECT

Amendment of Section 229 of the Civil Procedure Code, Regulation II of 1884.

	Date	Initial of Officer himself or responsible Deputy
Received in the Secretariat		
Submitted to Secretary		
Submitted by Secretary to Dewan or Councillor in charge		
Returned to Secretary		
Circulated by Secretary for Council ...	13. 1. 1911.	
Forwarded by 2d Councillor	7. 1. 11.	
Forwarded by 1st Councillor	17. 1. 1911	
Received in Secretariat	do	
Considered in Council ...	24/28 3-1911	
Submitted to the Dewan	13. 3. 1911.	
Submitted to His Highness		
Orders passed by His Highness		
Final Orders issued		
Circulated to Councillors		
Passed on by the Councillor ...		
Returned to Secretary by Councillor ...		

GBPM—8-6-1910—300

1054
14.3.11 Leg Dept 10 11 9

Extract from the Proceedings of the 259th Meeting of the Council of His Highness the Maharaja, held at Bangalore on the 2nd 4th & 8th March 1911. 1911.

X. Subject.-(Clause ii of Schedule).

Amendment of Section 229 of the Civil Procedure Code, Regulation II of 1884.

Opinion of the Council.

The provision for the recovery of income-tax due to the Civil & Military Station through the Civil Courts is no doubt an anomaly, but as it has been in existence for some time and as its removal will necessitate the passing of a separate regulation, it seems expedient to let the provision remain as it is.

Sd/- T. Ananda Row.
Dewan of Mysore.

"Extract"

V. Balasundaram
Offg. Secretary to Govt.

(10

Submitted to His Highness.

17 Explanation to Section 229 of the Mysore Civil Procedure Code provides for execution, within the territories of Mysore, of an order passed by the Collector of Civil and Military Station of Bangalore under the Indian Income Tax Act II of 1886. This provision has been retained in the Civil Procedure Code Bill under consideration.

See. 43 - Kaijm.

18 2. The Residency was approached to allow the Durbar to cancel this provision in the Code. In his letter No.7905 dated 26th December 1910, the First Assistant Resident stated that Col. Daly would have no objection to deleting the provision in the Mysore Civil Procedure Code, if adequate provision might suitably made in the Land Revenue Code or such other regulations as may appear more suitable with a view to empowering Deputy Commissioners to give effect to decrees passed by the Collector of Civil and Military Station.

19 3. The Council considers that the proposal of the Resident would necessitate the passing of a separate

separate regulation and therefore that the provision remain (in the bill) as it is. This may be approved.

P Chandler
by mm

79

12

Record of Cases submitted for the Orders of His Highness the Maharaja

Subject.

19.3.11
1852

Amendment of Section 229 of the Civil Procedure Code, Regulation II of 1884, providing for the recovery by the Mysore Civil Courts of income tax due to Civil and Military Station.

20

Order.

No. 546

~~KRW~~
21/3/11

Secy
23/III

21

Private replyto Resd
23/3/11

24/III
24/3/11

23/3/11

25/3/11

Serial No.

Draft letter to Mrs Desai Devaji is submitted for approval.

MRS (25)
27/3/11 SAV (11)

It does not appear to be necessary to inform the Resident why we are going to drop the matter. ~~It would~~ Consideration would amount to saying that we have ~~no~~ no case.

A short reply (if a reply is considered quite necessary) may be sent as in the draft put up.

27/3/11

2nd C

28/3/11

1795

Either no reply may be given or if a reply is necessary, the reason for dropping may be indicated.

29/3/11
Dewan

28/3/11

10838
30.3.11

NOTE—Contn. sheet.

GPB—50,000—12-8-10

Draft approved by Dewan
1.4.11.

29/3/11

G. R. S. 12]
General and Revenue Secretariat.

Legis File No. 19 of 1910-11

Serial No.	
	Issue Mr 1/4/11 SA 1/4/11
B. Rec 11/4/11	
3	No Pol. 896 dated 8/4/11 to the F. A. Resident in Mysore states that the Durbar do not at present intend to pass the joint passed above &c

NOTE— Contn. sheet.

GPB—50,000—12-8-10

G.R.S. 26]

File No. 19-10

Serial No. 1

Diary No. of letter replied to

Pol. No. 4 & 1

General and Revenue Secretariat

( )

, *the* 19 .

To

The First Assistant Resident in Mysore

Bangalore

Date of issue 14-12-10.

Signed by

Mr C.S. Balasundaramiyer

Sir,

I am directed to refer to the correspondence ending with this office letter Pol No 12 dd the 4th July 1904 regarding the amendment of Section 229 of the Code of Civil Procedure, Regulation II of 1884, by adding an Explanation that an order passed by the Collector of the Civil and Military Station, Bangalore under Section 30 of the British Indian Income-tax Act II of 1886, as applied to that Station shall be deemed to be a decree of a civil court within the meaning of that Section, and to state as follows:

2. The object with which the Explana-

over.

SUBJECT.

13/12/10 4.35 PM

section was required to be introduced was that persons liable to pay income-tax in the Civil and Military Station should not be enabled to evade their obligations by merely leaving the assigned tract for some part of the Mysore State. ~~In view of the fact, however, that by the treatment of such orders as decrees of civil courts a great divergence from the law and practice of British India be assigned and the civil courts of the State are thus utilised to enforce orders passed under the fiscal laws of another part of~~ the Durbar would therefore request that the Government of India may be moved to kindly reconsider their decision and allow the Durbar to enact this provision, which, it may be added, does not find a place in the Code of Civil Procedure recently as enacted in British India. As the Bill to consolidate and amend that Code in Mysore is, as the Hon'ble the Resident is aware, already before the

* The Code of Civil Procedure in Br. India does not contain such a provision, and though in the Income tax Act (S. 30) an order of a Collector is styled a decree, it can be executed only by a Collector and not by a Civil Court. It is a great anomaly that such orders should have a wider operation in Mysore than in Br. India & be capable of execution by a Civil Court. In view however of the reasons that led to the enactment of this particular provn in 1904 (See Cor. above ref to) it is considered that it should not be removed from the new Code without first obtaining the consent of the Hon'ble the Resident.

List of enclosures.

The existence of this anomalous provn entails a serious departure from the general scheme of the Code, and its provns as enacted in British India and the

Copied by

Examined by 19/11/10

GPB—20,000—12-8-10

3

G.R.S. 27]

GENERAL AND REVENUE SECRETARIAT.

(*Continuation Sheet draft form.*)

Legislative Council and is likely to come up for final consideration by that body at an early date, I am to request that the Hon. ble may be favoured with a very early reply in the matter.

I have the honour to be,

Sir

Your

Obedt Servt

12 Dec 10

III 29/12 Pol 1082 30.12.10 Legis 19-10 serial 2

No. 7905

J 1703-4

FROM

P. B. WARBURTON, ESQ., I. C. S.,
FIRST ASSISTANT TO THE RESIDENT IN MYSORE.

To

The Dewan of Mysore.

Dated Bangalore, 26th December 1910.

SIR,

I am directed to refer to Mr. Balasundaram Iyer's letter No.560, dated the 14th December 1910, regarding the amendment to Section 229 of the Civil Procedure Code, Regulation II of 1884.

2. The necessity for introducing some legal method for enforcing the orders of the Collector of the Civil and Military Station, Bangalore under Section 30 of the Income Tax Act (II of 1886) has been already discussed in letter No.2646, dated the 10th May 1902, from this office to the Dewan of Mysore and was recognized by the Durbar in their letter No.15298-143, dated the 23rd April 1903. It seems clear that some such regulation is as necessary now as then and although doubtless the explanation to Section 229 Civil Procedure Code, as finally approved by the Government of India, is a departure from the practice observed in British India, the Resident is of opinion that, as it relates purely to the Civil

R. P. B.—11-1910.—2,000.

5

Civil and Military Station, (a tract which from its position and the circumstances under which it has been assigned can hardly be assimilated to British India), it will be essential to make some further provision for the enforcement of orders under Section 30 of the Income Tax Act before he can agree to the removal of the above amendment. It will be remembered that in Mysore, there is no law corresponding to the Income Tax Act and it was for that reason that the explanation was added to Section 229 of the Civil Procedure Code. I am to suggest therefore for the consideration of the Mysore Government that adequate provision might suitably made in the Land Revenue Code or such other regulation as may appear more suitable with a view to empowering Deputy Commissioners to give effect to such decrees. If this can be satisfactorily arranged, Colonel Daly would have no objection to deleting the amendment to Section 229 of the Mysore Code of Civil Procedure as desired by the Durbar.

I have the honour to be,

Sir,

Your most obedient servant,

First Assistant Resident.

K.M.
24.12.10.

1h ab 6

1705/3/14/11

G.R.S. 26]

Legis

File No. 19-10

Serial No. 3

Diary No. of letter replied to

Part No.

General and Revenue Secretariat

( )

, the 19 .

To

The First Assistant to the Hon'ble the Resident in Mysore

Date of issue 8-4-1911.

Signed by

Insert Balasundaramiyer Sir /

Advertising to the Correspondence ending with your letter no 4983 dated the 26th December 1910 regarding the amendment of Sec 229 of the Code of Civil procedure, 1884 as in force in Mysore, I am directed to State that the Durbar do not, at present intend to press the point raised

over.

SUBJECT.

in this Office Letter no Pol 560 dated the 14th Dec 1910.

~~How, said:~~

The Darbar wished to remove an anomaly existing in the Code of Civil Procedure, but if a similar exception to general procedure has to be introduced ~~in~~ in another form elsewhere, there is little to be gained by the change.

List of enclosures,

Copied by

Examined by

GPB—20,000—12-8-10